

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

SONYA LARSON

Plaintiff,

v.

DAWN DORLAND PERRY, et al.

Defendants.

Civil Action

No. 1:19-cv-10203-IT

**SONYA LARSON'S RESPONSES TO DAWN DORLAND PERRY'S ALLEGED
STATEMENTS OF MATERIAL FACTS**

Pursuant to L.R. 56.1 and the rules of this Court, Plaintiff/Third Party Defendant, Sonya Larson (“Larson”) responds to Defendant/Plaintiff-in Counterclaim Dawn Dorland Perry (“Dorland”) Statement of “Undisputed” Material Facts as follows:

	<u>Alleged Undisputed Material Fact</u>	Cite
1	Ms. Dorland wrote a letter to final recipient in kidney donation chain in July 2015 (“Dorland Letter”). <u>Larson Response:</u> Not disputed for purposes of summary Judgment.	Amadei Aff., Ex. C, Doc. No. 181-3

2	Ms. Dorland testified at the first day of her deposition on September 3, 2021 concerning her expressions and creative process in drafting the Dorland Letter.	Amadei Aff., Ex. PP at pp. 127-139, Doc. No. 182-16
3	On July 7, 2015, Ms. Dorland posted the Dorland Letter to her private Facebook group, which at the time had three dozen members. Larson Response: Exhibit C does not include the number of members in the group, and Exhibit LL contains just Dorland's recollection.	Amadei Aff., Ex. C, LL, Doc. No. 182-12
4	Ms. Larson admitted that she had access to the Dorland Letter through the private Facebook group. Larson Response: Not disputed for purposes of summary judgment.	Amadei Aff., Exs. F, J, MM, RR at pp. 55, 115, 122; Doc. Nos. 181-6, 181-10, 182-13
5	In 2015, Ms. Larson started drafting a short story ultimately to be titled <i>The Kindest</i> . Larson Response: Not disputed for purposes of summary judgment.	Amadei Aff., Ex. D, E, RR at pp. 45-46, Doc. Nos. 1814, 181-5, 182-18
6	Ms. Larson admitted that in 2016 and later, that she had copied language from the Dorland Letter in drafting <i>The Kindest</i> . Larson Response: While for purposes of summary judgment, Larson admits she copied some language from the Dorland Letter, she denies that she copied the entire letter or that she made or printed a copy of the Dorland Letter. Larson says she did not receive a copy of the Dorland Letter until sometime in or around June 2018.	See SUMF 4

7	<p>In late 2015, Ms. Larson submitted <i>The Kindest</i> to Plympton for publication in audio format, and it was accepted for publication.</p> <p>Larson Response: The agreement with Plympton is part of a written document that speaks for itself and it is not as characterized herein.</p>	<p>Amadei Aff., Exs. G, H, RR at pp. 59-60, Doc. Nos. 1817, 181-8, 18218</p>
8	<p>The published audio version of <i>The Kindest</i> included in it a letter from a kidney donor to a recipient.</p> <p>Larson Response: Dorland has not identified which version of the story she is referencing; therefore, denied.</p>	<p>Amadei Aff., Ex. G, TT, Doc. Nos. 181-7, 182-20</p>
9	<p>The letter in the original audio version of <i>The Kindest</i> and the Dorland Letter both contain the following similar and/or identical phrases:</p> <p>“I’m a [] year-old white female, and I live”;</p> <p>“my first [article / documentary] about living kidney donation”;</p>	<p>Amadei Aff. C, TT, VV, Doc. Nos. 182-20, 182-22</p>

	<p>“I [have been / was] constantly reminded . . . need for kidneys”; “paired exchange”; “maximum impact [in others’ / on another] [lives / life] with only minimal risk to myself”; “My own childhood was marked by trauma and abuse”; “I [wasn’t given an / didn’t have the] opportunity to form secure attachments with my family of origin”; “A positive outcome of my early life is empathy” / “But in adulthood that experience provided a strong sense of empathy”; “While . . . [donate / give] to a [friend or family member / family member or friend], to me the suffering of strangers is just as real”; “[a majority of my mental energy / I channeled my energies] [on / into] imagining and celebrating you”; “My gift . . . trails no strings”; “You [are deserving of / deserve] [an extended and healthy life / all that life has to offer] simply [for being here / because you exist]” “I would love to know more about you [and] perhaps [even / we could] meet”</p> <p>“I accept any level of involvement, even if it is none.”</p> <p>Larson Response: Dorland has not sufficiently identified which version of the story she is referencing. Also, the quoted language from <i>The Kindest</i> is taken out of context. Therefore denied.</p>	
10	<p>After an initial recording of <i>The Kindest</i>, Ms. Larson contacted Chaz Curet at Plympton by email July 15, 2016, “[o]ne of my stories (“The Kindest”) contains a letter sent from one character to another, which includes a couple sentences that I’d excerpted from a real-life letter. I’m now realizing that for ethical reasons I am uncomfortable keeping those lines in, and would very much like to revise them. I know that the story has already been recorded, but is there any way that those few lines might be re-recorded with the new lines?”</p> <p>Larson Response: Not disputed for purposes of summary judgment.</p>	Amadei Aff., Ex. O; RR at pp. 130-131, Doc. Nos. 181-15, 182-18
11	<p>The story was re-recorded and the re-recorded version was published by Audible; however, the original recorded version remained available on other platforms.</p> <p>Larson Response: The Brilliance Audio version was published in violation of Larson’s agreement with Plympton, and it was not authorized.</p>	Amadei Aff., Exs. Q, FF, Doc. Nos. 181-17, 182-6

12	In the summer of 2016, Ms. Dorland and Ms. Larson corresponded by email concerning Ms. Larson's short story. At that time Ms. Larson told Ms. Dorland that the story was not yet completed, but that she would show Ms. Dorland a copy when it was finished. <u>Larson Response:</u> Larson was not obligated in any way to send her story to Dorland. Denied.	Amadei Aff., Ex. N; Doc. No. 14
13	In the summer of 2017, <i>The Kindest</i> was accepted for publication by American Short Fiction ("ASF"), and was included in a print bound volume of short stories dated Summer 2017. <u>Larson Response:</u> Not disputed for purposes of summary Judgment.	Amadei Aff., Ex. YY; RR at pp. 195-196, Doc. Nos. 18225, 182-18
14	In May 2018, ASF featured <i>The Kindest</i> on its website.	Amadei Aff., Ex. X; Doc. No.

	<u>Larson Response:</u> Larson is not sure what the word "featured" means as it is used herein, and therefore denies this statement.	181-24, <u>see also</u> , Doc. No. 96-3.
15	While <i>The Kindest</i> was featured on the ASF website, Ms. Dorland read the story. Ms. Dorland did not have to pay to read the story online. <u>Larson Response:</u> Larson is not sure what the word "featured" means as it is used herein, and therefore denies that part of this statement. Dorland claims she read the story online without having to pay for the privilege to do so, and for purposes of summary judgment, Larson admits this is true.	Amadei Aff., Ex. Z, QQ at pp. 71-76, Doc Nos. 181-26, 182-17
16	Upon reading the portion of the story that contains a letter from a kidney donor to kidney recipient, Ms. Dorland immediately recognized her own letter. <u>Larson Response:</u> Larson denies this statement is true because she did not actually see her letter.	Amadei Aff., Ex. Z, Doc No. 181-26

17	<p>The letter in <i>The Kindest</i> as published online by ASF and the Dorland Letter both contain the following similar and/or identical phrases:</p> <p>“I’m a [] year-old white female, and I live”;</p> <p>“my first [article / documentary] about [living/altruistic] kidney donation”;</p> <p>“paired exchange”;</p> <p>“Throughout my preparation for becoming a donor”/ “As I prepared to make this donation”</p> <p>“[a majority of my mental energy / I channeled my energies] [on / into] imagining and celebrating you”;</p> <p>“You [are deserving of/ deserve] [an extended and healthy life / all that life has to offer] simply [for being here / because you exist]” “I would love to know more about you [and] perhaps [even / we could] meet”</p> <p>“I accept any level of involvement, even if it is none” / “But if you prefer not to, I accept that reaction as well”</p> <p>Larson Response: The quoted language from <i>The Kindest</i> is taken out of context, and is misleading. Therefore denied.</p>	Amadei Aff., Ex. C, WW, Doc. No. 182- 23; <u>see also</u> , Doc. No. 96-3
18	<p>On June 4, 2018, Ms. Dorland reached out to Samantha Shea, a literary agent, for advice.</p> <p>Larson Response: Larson admits only that Dorland appears to have emailed Shea on June 4, 2018. The balance of this statement is denied.</p>	Amadei Aff., Ex. Y, Doc. No. 181-25
19	<p>On June 5, 2018, Ms. Dorland corresponded with ASF to discuss her belief that Ms. Larson had plagiarized the Dorland Letter.</p> <p>Larson Response: Larson admits that Dorland emailed ASF and that plagiarism was mentioned. Dorland was also looking for attribution, recognition and remedies for what she called her ethical issues.</p>	Amadei Aff., Ex. Z, Doc. No. 181-26
20	<p>Shortly thereafter, Ms. Dorland learned from Ms. Larson’s own webpage, that Ms. Larson had been selected for the Boston Book Festival’s (“BBF”) short story feature known as One City/One Story.</p> <p>Larson Response: This is what Dorland claims and for purposes of summary judgment, she does not dispute this.</p>	Amadei Aff., Ex. QQ at pp. 176-180, Doc. No. 182-17

21	<p>Ms. Dorland corresponded with BBF to discuss her belief that Ms. Larson had plagiarized her letter.</p> <p>Larson Response: Larson admits that Dorland emailed the BBF and that plagiarism was mentioned. Dorland was also looking for attribution, recognition and remedies for what she called her ethical issues.</p>	Amadei Aff., Ex. BB, Doc. No. 182-2
22	<p>Ms. Larson revised the letter in <i>The Kindest</i> at the request of the BBF. This revised version was ultimately published in an anthology titled <i>Welcome to the Neighborhood</i> in 2019, which also became the version registered with the United States Copyright Office.</p> <p>Larson Response: Not disputed for purposes of summary judgment.</p>	Amadei Aff. Ex. BB, DD, NN; Doc Nos. 182-2, 182-4, 182-14
23	<p>The registered version of <i>The Kindest</i> has the following phrases:</p> <p><i>“I’m a thirty-eight-year-old white female, and I live . . .”</i></p> <p><i>“I saw a documentary about altruistic kidney donation.”</i></p> <p><i>“I myself know something of suffering, but from those experiences I’ve learned courage and perseverance”</i></p> <p><i>“But throughout it all I found a profound sense of purpose, knowing that your life depended on my gift”</i></p> <p><i>“Naturally, I am curious about your healing, and perspective on our shared experience. Perhaps we could meet. If you’d rather not, that’s fine”</i></p> <p>Larson Response: The quoted language from <i>The Kindest</i> is taken out of context, and is misleading. Therefore denied.</p>	Amadei Aff., Ex. NN, XX; Doc. Nos. 182- 14, 182-24
24	<p>Ms. Larson changed the sign-off of the letter in <i>The Kindest</i> to “Kindly,” which Ms. Larson knew was frequently used by Ms. Dorland as her sign-off in her emails.</p> <p>Larson Response: Larson admits that she used the sign-off “kindly” but says it refers to the title of her story and not to Dorland’s email sign-offs. Also, Larson is not familiar with how Dorland frequently signs her emails. Therefore denied.</p>	Amadei Aff., Ex. NN, UU, Doc. No. 18214, 182-21

25	<p>In or around July 2018, Ms. Dorland also discovered the Brilliance publication of <i>The Kindest</i> and recognized passages of identical text describing her past personal experiences from her own Letter.</p> <p>Larson Response: Larson says that the Brilliance Audio version was published without her knowledge or permission. Further, Larson says the text speaks for itself and not otherwise.</p>	Amadei Aff., Ex. FF; Doc. No. 182-6
26	<p>After discovery of the Brilliance version, Ms. Dorland visited Ms. Larson's website in order to research whether there were any other entities that she may contact relevant to their interest in <i>The Kindest</i>.</p> <p>Larson Response: Larson says that this statement mischaracterizes the deposition testimony and therefore, denies same.</p>	Amadei Aff., Ex. QQ at pp. 143-146, Doc. No. 182-17
27	<p>On August 13, 2018, BBF canceled One City/One Story and did not publish <i>The Kindest</i>.</p> <p>Larson Response: Larson says that August 13, 2018 is the date of the email from the BBF informing her of the cancellation.</p>	Amadei Aff. Ex. GG, Doc. No. 182-7
28	<p>In 2018, Ms. Dorland registered the Dorland Letter with the United States Copyright Office.</p> <p>Larson Response: Dorland registered her copyright to the Dorland Letter effective June 10, 2018.</p>	Amadei Aff., Ex. OO, Doc. No. 182-15
29	<p>In the course of this litigation and from materials produced in discovery, Ms. Dorland learned of dozens of communications exchanged between Ms. Larson and her friends during the relevant time period (2015-2020) targeting Ms. Dorland.</p> <p>Larson Response: Larson says she is not sure what the word "targeting" means. Also, Dorland has no referred to any communications, and therefore denies this statement.</p>	Amadei Aff., Ex. UU, Doc. No. 182-21

Plaintiff, Third-Party Defendant,
Sonya Larson,

By her attorneys,
/s/ Andrew D. Epstein

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January 2023, this document was filed and served through the ECF system and sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Andrew D. Epstein

Andrew D. Epstein, BBO No.155140